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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/549,720

05/31/2006

Reinhard Weiberle

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26646 7590 10/27/2009  
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EXAMINER

BURCH, MELODY M

ART UNIT

PAPER NUMBER

3657

MAIL DATE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/549,720	<b>Applicant(s)</b> WEIBERLE ET AL.	
	<b>Examiner</b> Melody M. Burch	<b>Art Unit</b> 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 9, 10 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9, 10 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/19/09 has been entered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of the communication devices not being connected to each other as recited in claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. See the 112<sup>1st</sup> rejection below.

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The originally filed specification fails to provide support for the added limitation of the communication devices not being connected to each other as recited in claim 9. See the 112<sup>1st</sup> rejection below.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 9 and 13-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed disclosure fails to provide

support for the added negative limitation of the communication devices not being connected to each other as recited in claim 9. Examiner notes that the communication devices are connected to each other via the modules in a similar way that the modules are all connected to each other via the communication devices as described in paragraph [0022] of the published application of the instant invention and as shown in figure 1 of the instant invention. The remaining claims are rejected due to their dependency from claim 9.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art figure 4 in view of US Patent 6540309 to Jordan et al. and US Patent 5086499 to Mutone.

Admitted Prior Art figure 4, as modified, is silent with regards to the one of the second communication device and the third communication device being configured identically with respect to connections to the at least four wheel-braking modules as the first communication device.

Jordan et al. teach in the figure the use of an electronic braking system in which the a second communication device 8 being configured identically with respect to connections to at least four wheel braking modules as a first communication device 7.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the communication device arrangement of Admitted Prior Art figure 4 to have included a second communication device configured identically with respect to connections to the at least four wheel braking modules, as taught by Jordan et al., in order to provide a fault tolerant system for improved reliability and safety.

Admitted Prior Art figure 4, as modified, is silent with regards to each sensor being connected to two wheel braking modules associated with opposite lateral sides of the vehicle.

Mutone teaches in the figure the use of each component 14 and 16 being connected to two modules 17 and 18 as shown in the figure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the outputs from each sensor of Admitted Prior Art, as modified, to have been connected to two wheel braking modules associated with opposite lateral sides of the vehicle on the same axle, in view of the teachings of Mutone, in order to provide a means of redundantly detecting and cross checking data as taught by Mutone in col. 1 lines 55-68 for further improving product reliability.

***Allowable Subject Matter***

7. Claims 9 and 13-16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1<sup>st</sup> paragraph, set forth in this Office action.

***Response to Arguments***

8. Applicant's arguments filed 10/19/09 have been fully considered but they are not persuasive with regards to claims 10 and 12. Applicant argues that APA, as modified, fails to include the limitation that each sensor is connected to two wheel-braking modules associated with opposite lateral sides of the vehicle on the same axle. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Examiner emphasizes that it is APA, as modified, that teaches the claimed invention. Applicant argues that elements 14 and 16 of Mutone are not sensors. Examiner notes that she is not relying on Mutone to teach sensors since the APA teaches the sensors. Mutone is relied upon solely for the teaching of having each of components 14, 16 being connected to two modules 17, 18 on opposite sides. Examiner further notes that, as broadly recited, each sensor in figure 4 is connected to two wheel braking modules associated with opposite lateral sides of the vehicle on the same axle because one sensor is directly connected to one module and the one sensor is also indirectly connected via the one module and a portion of at least one communication device to a module on the opposite lateral side of the vehicle. Accordingly, the rejections of claims 10 and 12 have been maintained.

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9. Applicant's arguments with respect to claims 9 and 13-16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb  
October 25, 2009

/Melody M. Burch/  
Primary Examiner, Art Unit 3657